

Divisions Affected – N/A

COUNCIL – 9 July 2024

THE USE OF SPECIAL URGENCY FOR KEY DECISIONS

Report by Director of Law & Governance and Monitoring Officer

RECOMMENDATION

1. **Council is RECOMMENDED to note**
 - (a) the use of Special Urgency for a Key Decision on 23 May 2024 and
 - (b) the exemption from Call-in of a Key Decision made by Cabinet on 14 May 2024.

Executive Summary

2. The Constitution makes provision for the taking of an urgent decision by the Chief Executive in accordance with the provisions of para 2(c) of Part 7.1 where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.
3. Part 8.1 Section 17.3 of the Constitution requires that “the Leader of the Council will submit quarterly reports to the Council on any executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken”.
4. In accordance with Rule 16 the key decision on the change of arrangements relating to the provision of recycling and waste services was brought to the attention of the Chair of the Council who agreed that the taking of the decision could not be reasonably deferred and could be taken under the Special Urgency Procedure.
5. The item was also exempt from Call-in as any delay likely to be caused by the call in process would seriously have prejudiced the Council’s or the public’s interests and the Chair of the Council agreed that in all the circumstances the decision should be treated as a matter of urgency as required under Part 6.2, Section 20 of the Constitution.
6. An item on the agenda for the Cabinet meeting on 14 May 2024 was also exempted from Call-in. The item, Cost of Living Programme for 2024/25, included funding for the provision of food vouchers in the school holidays for the

families of children entitled to Free School meals. The Chair of the Council agreed that in all the circumstances the decision should be treated as a matter of urgency as required under Part 6.2, Section 20 of the Constitution.

Reasons for Special Urgency

7. The Constitution specifies procedures and timescales that have to be followed where a local authority executive, committee or individual is taking a Key Decision. A Key Decision is defined in the Council's Constitution (Part 1.3, Section 3 (b)) "as being 25% of the annual revenue budget for the relevant service block (i.e. that part of the Council's total revenue budget allocated to the Cabinet Member for the service area concerned) or £500,000, whichever is the lower figure, and £1m in the case of capital expenditure; or 25% of the people living or working in the area affected; or 25% of the capacity, frequency or hours of operation of a service or facility."
8. Local Authorities are legally required to publicise Key Decisions in their forward plans a minimum of 28 clear days prior to the decision being taken.
9. As is common practice, the Constitution makes provision for decisions to be taken, as a matter of urgency, where it is impracticable to give the requisite notice. The general exception rule allows Key Decisions to be taken within the 28 day period, providing the Chair of the relevant Scrutiny Committee has been informed by notice of the decision to be taken, the Council has made publicly available a copy of that notice and five clear days have elapsed since the publication of that notice.
10. In exceptional cases where a Key Decision is required to be taken even sooner and it is impracticable to wait for the five clear days required under general exception provisions, then the special urgency rules can be applied. In such instances, the decision may only be made if the decision-maker has obtained the agreement of the Chair of the relevant Scrutiny Committee, that the decision is urgent and cannot be reasonably deferred. If there is no Chair of the Scrutiny Committee, or if the Chair is unable to act, then the agreement of the Chair of the Council, or in her/his absence the Vice-Chair will suffice.
11. Furthermore, the Constitution states (Part 6.2, Section 20) that the provision for Call-In "shall not apply where the decision being taken by the Cabinet, Officer or other decision maker is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call in. The Chair of the Council must agree that in all the circumstances the decision should be treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's agreement shall be required. In the absence of both, the Proper Officer's agreement shall be required. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency."

12. In relation to the Key Decision by the Chief Executive on 23 May 2024, the Constitution states that the use of the special urgency provision requires the agreement of the Chair of the relevant Overview and Scrutiny Committee. In this case that would be the Place Overview & Scrutiny Committee. However, there was no Chair in place as this issue arose after the Annual Council meeting and before the committee met again to elect a Chair. Therefore, the agreement of the Chair of the Council was sought and given (see paragraph 10).
13. The urgent decision was to consent to the change of arrangements relating to the provision of recycling and waste services at the Ardley In-Vessel Composting site by the Council's contractor, Severn Trent Green Power. Ardley In-Vessel Composting site had been sold to Biffa who now operate the site. There are no service reductions to the Council, and the Council's contractor remains Severn Trent Green Power. This decision was taken urgently because to delay would have been detrimental to the Council's commercial and financial interests. This was above the key decision threshold so met the criteria for a key decision, but the details remain exempt under Paragraph 3 Schedule 12A Local Government Act 1972.
14. In relation to the Cabinet item, Cost of Living Programme for 2024/25, this included funding for the half term holiday at the end of May. If officers had had to wait until the call-in period after Cabinet had expired, there would be insufficient time for settings to purchase the vouchers for distribution to relevant families before the break. The Government decision on this came too late for the item to be taken to April Cabinet.

Financial Implications

15. There are none arising from this report which is noting decisions previously taken.

Comments checked by: Ian Dyson, Director of Financial and Commercial Services, ian.dyson@oxfordshire.gov.uk

Legal Implications

16. Regulation 19 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires that the executive leader submits a report to the authority at least annually on executive decisions taken in cases of special urgency (Regulation 11), including the particulars of each decision.

This report is fulfilling both the legal and Constitutional duty to inform Council.

Comments checked by: Paul Grant, Head of Legal & Deputy Monitoring Officer, paul.grant@oxfordshire.gov.uk

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Annex: None

Background papers: None

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